8328616/2023/VIG-VI-PRR01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – PR&RD Department - Allegations of non submission of Annual Property Returns to the competent authority and un-authorizedly utilized the services of private person in Government premises by Sri M. Nagaraja Naik, the then Assistant Engineer, O/o. Dy. Executive Engineer, RWS&S Sub-Division, Madanapalle, Chittoor District in violation of APCS (Conduct) Rules, 1964 - Disciplinary Proceedings initiated – Inquiry conducted - Inquiry Report Received - Communication of Inquiry Report along with disagreement factors – Written representation – Imposing penalty of "Withholding of three (03) annual grade increments with cumulative effect under Rule 9(vi) of APCS (CCA) Rules, 1991 – orders issued- Reg.

PANCHAYAT RAJ AND RURAL DEVELOPMENT (VIG.VI) DEPARTMENT

G.O.Rt.No.889 **Dated:19/12/2023**

Read the following:-

1. G.O.Rt.No.315, PR & RD (Vig.II) Department, dated:31.03.2015.
2. From Sri M.Nagaraja Naik, the then Asst. Engineer, written statement of defence, dated:07.05.2015 received through letter No.Vig(4)/RWS&S/0910/2014, dated:03.06.2015 of Chief Engineer (Admn.), RWS&S, Hyderabad.
3. G.O.Rt.No.1157, PR&RD (Vig.II) Department, dated:22.12.2015 read with G.O.Rt.No.1158, dated:22.12.2015 of PR & RD (Vig.II) Department.
4. From the Superintending Engineer & Inquiry Officer, RWS&S Circle, Chittoor, letter No.Supdt/133/ACB/2014, dated:17.01.2020.
5. Govt. Memo. No.2850/Vig.VI/2014, dt:21.12.2021.
6. From the ENC, RWS&S Dept., Lr.No.Vig(4)/RWS&S/1251/2014, dt:06.02.2023.
7. Govt. Letter No. 2850/Vig.VI/2014 Dated:20/07/2023.
8. From the APPSC, Letter.No.GAD03-APPSC0DCC/81/2023-DC.SEC-APPSC (Computer No.2180039), dated:26.09.2023.

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Whereas, in the reference 1st read above, Government had initiated departmental action against Sri M. Nagaraja Naik, the then Assistant Engineer, O/o Deputy Executive Engineer, RWS&S Sub-Division, Madanapalle, Chittoor District on the allegations of non-submission of Annual Property Returns to the competent authority and un-authorizedly utilized the services of private person in Government premises.

2. And whereas, in the reference 2nd read above, the charged officer Sri M. Nagaraja Naik, the then Assistant Engineer had submitted his written statement of defence, denying the charges framed against him.

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3. As the written statement of defence submitted by the charged officer was not convincing, it was decided to entrust the case to regular inquiry and in the reference 3rd read above, orders were issued, appointing the Superintending Engineer, RWS&S, Chittoor and the Executive Engineer, RWS&S Division concerned as an Inquiry Officer & Presenting Officer respectively, to inquire into the charges framed against Sri M.Nagaraja Naik, the then Assistant Engineer, RWS&S, Madanapalle and Sri A.Lakshmipathi, the then Deputy Executive Engineer, RWS&S, Madanapalle of Chittoor District.

4. In the reference 4th read above, the Superintending Engineer & Inquiry Officer, RWS&S Circle, Chittoor has submitted his Inquiry Report and observed that single article of charge framed against Sri M. Nagaraja Naik, the then Assistant Engineer contains two sub-charges:

i. That he has failed to submit the Annual Property returns to the competent authority;
ii. Un-authorizedly utilized the services of private person in Government premises;

5. In respect of first part of the charge, that the Inquiry Officer has submitted that the charged officer Sri M.Nagaraja Naik, the then Assistant Engineer, O/o Dy. E.E., RWS&S Sub-Division, Madanapalle, Chittoor District has failed to submit the annual property returns to the competent authority at that time and hence the charge is proved.

6. In respect of 2nd part of the charge i.e., utilizing the services of un-authorized person in Government premises, the Inquiry Officer has observed that 'upon reviewing the record reported in detail, it is not clear how the Private person Sri P.Nagaraju who was reported to have assisted the charged officer in receiving bribe amount has come to be called as private employee. There is no record to show that he has any sort of formal or informal arrangement with the office of RWS&S, Madanapalli in official work and /or receive wages as temporary or contract labour. In view of above said findings, explanations and reasons, the inquiry could not confirm that the charged officer has un-authorizedly utilized the services of private person and hence the charge is not proved.

7. Government, after careful examination of the Inquiry Report submitted by the Inquiry Officer, have disagreed with the findings of Inquiry Officer in respect of 2nd part of charge i.e., utilizing the services of un-authorized person in Government premises, with the following reasons:-

The above contention of the Inquiry Officer in respect of 2nd part of charge is not agreeable. The practice of engaging private persons by the officials in dealing their interested matters is unofficial and without any formal orders as such no records will be available to prove such arrangements on record. Had there been any formal orders for such arrangements then it could not be termed as 'private employment' and

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such person as unauthorized person. On noticing such incidents the Govt. had long back vide in Memo.No.101/Spl.B/2000-4 GA(Spl.B) Dept. dated:17.04.2001 issued instructions that no manual prescribed to engage a private person to perform official duties during the course of departmental activity.

Further, as seen from the Mediators Report-II it is evident that on the date of trap by ACB on 23-01-2014 Sri P.Nagaraj (private person) is present in the office of the A.O. Sri M.Nagaraja Naik, the then Asst. Engineer. He received the bribe amount of Rs.7000/- from the Accused Officer and kept in his trouser pocket. The ACB officials have seized the tainted amount from him. The individual himself has deposed before the ACB officials that the complainant on demand gave the bribe amount to the Accused Officer and the AO received the amount and gave to him to keep with him. The same was recorded in Mediators Report-II.

It is further observed that, Sri A.Lakshmipathi, the then Dy. Executive Engineer, RWS&S, Madanapalli on the date of trap, has deposed before the ACB officials and mediators that the Asst. Engineer has engaged the said private employee to safe guard his interests since two years. Further the said individual has found him working in AE's office right from the date he took the charge of the RWS&S, Subdivision. The same was recorded in Mediators Report-II.

Para 5.2 in Chapter XXII of A.P. Vigilance Manual Volume-I stipulates that in a criminal trial, the prosecution will have to prove its case beyond all reasonable doubt. In a disciplinary proceeding the decision is taken based on preponderance of probability. The same was reiterated in Circular Memo.No. 24637/Ser.C/2000-2 General Administration (Ser.C)Dept., dated:05-09-2000 regarding departmental inquiries.

Further the presence of Sri P.Nagaraj along with the charged Officer Sri M.Nagaraja Naik, the then Asst. Engineer in the O/o A.E, RWS&S, Madanapalli on the date of trap, recovery of tainted amount from him during trap proceedings and depositions made by the Sri P.Nagaraju, and Sri A.Lakshmipathi, the then Dy. Executive Engineer, RWS&S, Madanapalli before the ACB officials on the date of trap which were recorded in Mediators Report - II is enough to prove that the charged officer has un authorizedly utilized the services of private person in performing his official duties. As such the charge framed against him is considered as fully proved".

8. Therefore, a copy of the Inquiry Report along with the afore mentioned reasons for disagreement on the findings of the Inquiry Officer in respect of 2nd part of charge was communicated to the charged officer Sri M. Nagaraja Naik, the then Asst. Engineer, O/o Dy.E.E., RWS&S Sub- Division, Madanapalle, Chittoor District under Rule 21(2) of A.P. Civil Services (CC&A) Rules, 1991 with a direction to submit his written representation if any, to the Government within (15) days from the date of receipt of Government Memo. He was further informed that if the representation is not received within the stipulated time as indicated supra, it will be construed that he has no explanation to submit and further action will be taken based on the material available with the Government, as per APCS (CC&A) Rules, 1991.

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9. Whereas the written representation of Sri M. Nagaraja Naik, the then Assistant Engineer, RWS&S, O/o Dy. E.E., RWS&S, Madanapalli, Chittoor District has not been received within the stipulated time as indicated supra, it was construed that he has no explanation to submit and further action was taken based on the material available with the Government, as per APCS (CC&A) Rules, 1991.

10. Government have decided to impose a punishment of 'withholding of (03) three annual grade increments with cumulative effect', as per the gravity of proved charge, against Sri M. Nagaraja Naik, the then Assistant Engineer, RWS&S, O/o Dy. E.E., RWS&S, Madanapalli, Chittoor District on the allegations of non submission of Annual Property Returns to the competent authority and un-authorizedly utilized the services of private person in Government premises in violation of APCS (Conduct) Rules, 1964. Placed the matter before the Andhra Pradesh Public Service Commission for their concurrence vide reference 7th read above. It is therefore considered to proceed further and as per the concurrence of APPSC obtained vide reference 8th read above.

11. Government, after careful examination of the matter, hereby order to impose the penalty of "Withholding of three (03) annual grade increments with cumulative effect under Rule 9(vi) of APCS (CCA) Rules, 1991 against Sri M. Nagaraja Naik, the then Assistant Engineer, RWS&S, O/o Deputy Executive Engineer, RWS&S, Madanapalli, Chittoor District.

12. The Engineer-in-Chief, Rural Water Supply & Sanitation, Vijayawada shall take necessary further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
Sri M. Nagaraja Naik, the then Asst. Engineer, RWS&S, Madanapalle of Chittoor District (through Engineer-In-Chief, RWS&S, Vijayawada)
The Engineer-in-Chief, Rural Water Supply & Sanitation, Vijayawada (in duplicate with a request to obtain and furnish the dated acknowledgment of the orders)
Copy to:
The Secretary, APVC, Secretariat Building-5, Velagapudi.
The Secretary, APPSC, Vijayawada (w.r.t File No. GAD03-APPSC0DCC/81/2023-DC.SEC-APPSC (Computer No.2180039), dt:26.09.2023)
The Accountant General, A.P., Vijayawada.
The Superintending Engineer, RWS&S, Chittoor.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER